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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,812	11/22/2000	John A. Sollars JR.	2105C	9884

25280 7590 10/02/2002

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EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,812

Applicant(s)

SOLLARS ET AL.

Examiner

Ms. Arti R. Singh

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 22 November 2000 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Specification

1. The disclosure is objected to because of the following informalities:
2. At the beginning of the Specification (page 1) under the heading "Cross Reference To Related Applications", the continuity data needs to be updated as Applications; 09/350,620 has matured into U.S.P.N. 6,117,366, 09/350,257 has matured into U.S.P.N. 6,177,365, and Application 09/406,264 has now matured into USPN 6,220,309. Appropriate correction is required.
3. The uses of Trademarks/Tradenames have been noted throughout this application (for example on page 15 -Amsperse). They should be capitalized wherever they appear and be accompanied by the generic terminology. Although the use of Trademarks/Tradenames is permissible in patent applications, the proprietary nature of the marks/names should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as a trademark or tradename. To describe physical or other properties of material by mere use of trademark is objectionable since it has tendency to make trademark descriptive of product rather than leaving trademark to serve its traditional purpose, which is to identify product's source of origin.
4. On page 20, line 5 the application to Sollars, Jr. et al., 09/406,264 has matured into U.S.P.N. 6,220,309. Please update this information.
5. On page 30, line the term "laminate" is misspelled. Please correct.

Claim Objections

6. Claims 13, 14, 22 and 23 are objected to because of the following informalities; in order to conform to standard U.S. practice, the word "characterized" in claims 13, 14, 22 and 23 should be changed to "wherein." Appropriate correction is required.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-43 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15, 18-30, 33-45, 48-60 and 63-69 of copending Application No. 09/718,643. Although the conflicting claims are not identical, they are not patentably distinct from each other either, because the claims of Application 09/718,643 are drawn to an airbag cushion comprising a coated inflatable fabric which may be at least partially coated, whereas the claims of the present Application are drawn to an airbag cushion comprising a coated fabric, wherein said fabric is coated with a laminate film, implying a fully coated surface. Both Applications require the same structure and chemistry for the airbag fabric and its coating. However, the Application 09/718,643

refers to the coating as an elastomeric composition, and the present Application 09/718,812 refers to the same coating as a film. The phrase "coated with a laminate film" implies that the film was obtained via a coating process and thus, is actually a method step and would have no effect on the end result of the final airbag cushion that is produced, and thus, no patentable distinction is seen.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1-43 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-11, 17-22 and 29-34 of copending Application No. 09/767,156. Although the conflicting claims are not identical, they are not patentably distinct from each other either, because the claims of Application 09/767,156 are drawn to a coated side airbag cushion, comprising a coated fabric which may be at least partially coated with an elastomeric polyurethane coating whereas, the claims of the present Application are drawn to an airbag cushion comprising a coated fabric, coated with a laminate film, thereby implying a fully coated surface. Both Applications require the same structure and chemistry for the airbag fabric and its coating. However, Application 09/767,156 refers to the coating as an elastomeric composition, and the present Application 09/718,812 refers to the same coating as a film. The phrase "coated with a laminate film" implies that the film was obtained via a coating process and thus, is actually a method step and would have no effect on the end result of the final airbag cushion that is produced, and thus, no patentable distinction is seen.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 1, 2, 5 and 10-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No. 6,429,155. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the Patented claims and the present Application are drawn to a coated fabric with specific leak down times wherein the coated fabric has at least one single narrow fabric layer at a discrete area and at least two layers of fabric in certain discrete areas. While the patented claims add the further limitations of the packing volume, this limitation would be proportional to the amount of coating on the fabric i.e. the lower the amount of packing volume, the less of a coating is employed. Thus, the coated fabric recites in the Application, with the amount of coating being 3.0 ounces per square yard or less, would meet the packing volume limitations seeing as the fabric layers have the same weave construction and the same coating composition is used. Therefore the claims of both the Application and the Patent appear to be obvious variants of one another, and thus no patentable distinction is seen.

11. Claims 1-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,220,309 to Sollars, Jr. et al. in view of U.S. Patent No. 5,110,666 to Menzel et al. The claims of the present invention are drawn to a coated fabric with the specific weave structure of U.S. Patent No. 6,220,309. While the claims of U.S. Patent No. 6,220,309 fail to teach coating the inflatable fabric, Menzel et al discloses adding polyurethane coating in the amount of 0.1 to 1 ounces per square yard to produce an inflatable fabric having low levels of air permeability (column 3, lines 28-31). Therefore a person having ordinary skill in the art at the time the invention was made to have employed the polyurethane coating of Menzel et al. to the inflatable fabric taught by Sollars, Jr. et al. (U.S. Patent No. 6,220,309) motivated by

the reason expectation of providing an airbag with increased impermeability. Therefore, the inventions are obvious variants of one another.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti R. Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 7:00am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Ms. Arti R. Singh
Patent Examiner
Art Unit 1771

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October 1, 2002